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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1251 OF 2007
IN
WRIT PETITION NO. 3003 OF 2005

Mr. Ajmuddin Babulal Tamboli ... Applicant

V/s

1. TATA Motors Ltd., Pune
2. The Judge, Labour Court, Pune. ... Respondents

Mr. P.S.Mohalkar for the applicant.

Mr. K.S.Bapat i/by Mulla & Mulla & CBC for the respondent No.1.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 14TH SEPT., 2007.

P.C.:

1. This civil application has been filed for payment of wages under Section 17B of the Industrial Disputes Act. The applicant, the original respondent No.1 workman, has contended that after his termination from service he has not been able to secure any employment. The applicant has stated that he continues to be unemployed even on the date of filing of the application i.e. on 5.10.2005. An affidavit in reply has been filed by the respondent No.1 Company, the original petitioner,

contending that the applicant is working in a mosque known as Hazrat Garbir Shahvali Baba Dargah Sharif, at Talegaon - Dabhade, Tal. Maval, Dist. Pune. It is also averred in this affidavit filed by the Assistant General Manager of the Company that the applicant is undertaking jobs for welding as he is a skilled welder.

2. A rejoinder has been filed by the applicant workman denying these contentions.

3. It is submitted on behalf of the Company that although the civil application was filed in 2005, the applicant did not move the same for early hearing and that by itself indicates that he was gainfully employed or in any event had some alternative source of income or was not in dire straits. The learned counsel for the Company submits that the affidavit filed by its Assistant General Manager discloses alternative sources of income for the workman who is gainfully employed.

4. In my opinion, the submissions made by the learned counsel for the Company cannot be accepted for denying wages under Section 17B of the Industrial Disputes Act. The civil application has been filed in 2005 and has come up for hearing in 2007, not due to any fault of the applicant, but because of the pendency of matters in

this Court. The applicant, therefore, cannot be penalised on this count.

5. As regards the contention that the applicant is employed in a mosque and is also undertaking welding jobs has been denied in the rejoinder. In my view, the application for claiming wages under Section 17B of the Industrial Disputes Act cannot be denied. No details have been furnished in the affidavit in reply about the welding jobs allegedly undertaken by the applicant nor have any particulars been given as to whether the applicant is earning while working in the mosque, assuming that he is so working.

6. In these circumstances, civil application is allowed in terms of prayer clause (a).

7. The arrears to be paid within four weeks from today.

8. Civil application disposed of accordingly.

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